

**641—162.16(135) Complaints and investigations.**

**162.16(1) *Complaints.*** Any person may file a complaint with the department against any problem gambling treatment program licensed pursuant to this chapter. The person filing the complaint shall make the complaint in writing and shall mail or deliver the complaint to the division director at the Division of Behavioral Health and Professional Licensure, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319. The complaint shall include the name and address of the complainant, the name of the problem gambling treatment program, and a concise statement of the allegations against the program, including the specific alleged violations of this chapter, if known. A complaint may also be initiated by the department pursuant to evidence received by the department. Timely filing of complaints is required in order to ensure the availability of witnesses and to avoid initiation of an investigation under conditions which may have been significantly altered during the period of delay.

**162.16(2) *Evaluation and investigation.*** Upon receipt of a complaint, the department shall make a preliminary review of the allegations contained in the complaint. Unless the department concludes that the complaint is intended solely to harass a problem gambling treatment program or lacks a reasonable basis, the department shall conduct an on-site investigation of the program which is the subject of the complaint as soon as practicable. The department shall consider the complaint to be confidential and shall protect the name of the complainant, unless the complainant waives the right to confidentiality.

**162.16(3) *Investigative report.*** Within 30 working days after completion of the investigation, the department shall prepare a written investigative report and shall submit the report to the executive director or program director of the problem gambling treatment program and the chairperson of the program governing body. This report shall include the general nature of the complaint and shall indicate if the allegations were substantiated, unsubstantiated, or undetermined; the basis for the finding; the specific statutes or rules at issue; a response from the problem gambling treatment program, if received; and a recommendation for action.

**162.16(4) *Review of investigations.*** The department shall review the investigative report and shall determine appropriate action.

*a. Closure.* If the department determines that the allegations contained in the complaint are unsubstantiated, the department shall close the case and shall promptly notify the complainant and the problem gambling treatment program by certified mail, return receipt requested.

*b. Referral for further investigation.* If the department determines that the case warrants further investigation, it shall refer the case to department staff members for further investigation.

*c. Written plan of corrective action.* If the department determines any allegations contained in the complaint are substantiated and corrective action is warranted, the department may require the problem gambling treatment program to submit and comply with a written plan of corrective action. A problem gambling treatment program shall submit a written plan of corrective action to the department within 20 working days after receiving a request for the plan. The written plan of corrective action shall include a plan for correcting violations as required by the department and a time frame within which the problem gambling treatment program shall implement the plan. The plan is subject to department approval. The requirement of a written plan of corrective action is not formal disciplinary action. Failure to submit or comply with a written plan of corrective action may result in formal disciplinary action against the problem gambling treatment program.

*d. Disciplinary action.* If the department determines that any allegations contained in the complaint are substantiated and disciplinary action is warranted, the department may proceed with such action in accordance with rule 641—162.11(135).

**162.16(5) *Confidential information and public information.*** Information contained in a complaint is confidential pursuant to Iowa Code sections 22.7(18) and 22.7(35) or any other provision of state or federal law, unless the complainant waives the right to confidentiality. Investigative reports, written plans of corrective action, and all notices and orders issued pursuant to rule 641—162.11(135) shall refer to problem gambling clients by number and shall not include any other client-identifying information. The department shall ensure that investigative reports, written plans of corrective action, and all notices

and orders issued pursuant to rule 641—162.11(135) are available to the public as open records pursuant to Iowa Code chapter 22.